

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JULY 5, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of July 5, 2006, was called to order by Mayor Hitchcock at 5:50 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce (arrived at 6:40 p.m.), and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer (arrived at 6:58 p.m.), Deputy City Attorney Magdich, and Interim City Clerk Perrin

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), regarding Association of Lodi City Employees (General Services and Maintenance and Operators) and Lodi Professional Firefighters, pursuant to Government Code §54957.6
- b) Actual Litigation: Government Code §54956.9(a); one case; County of San Joaquin v. City of Stockton et al., San Joaquin County Superior Court, Case No. CV029651
- c) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 5:50 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:09 p.m., Mayor Hitchcock reconvened the City Council meeting, and Deputy City Attorney Magdich disclosed the following actions.

In regard to Item C-2 (a), direction was given to staff.

Items C-2 (b) and (c) were information only.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of July 5, 2006, was called to order by Mayor Hitchcock at 7:09 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer (left at 9:09 p.m.), Deputy City Attorney Magdich, and Interim City Clerk Perrin

B. INVOCATION

The invocation was given by Pastor Jason Tacderan, Zion Reformed Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hitchcock presented a proclamation to Tony Goehring, Parks and Recreation Director, proclaiming the month of July 2006 as “Parks and Recreation Month” in the City of Lodi. Mr. Goehring announced that Lodi will be hosting the State Babe Ruth Tournament this year, which will be the first one in Lodi in over a decade.

D-3 (a) Interim City Clerk Perrin provided an update on the Centennial activities being planned for 2006. Further, Wally Sandelin, representing the Centennial Task Force, presented the City with a Centennial afghan, which depicts various pictures representing the Lodi community.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Beckman, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$2,649,003.46.

E-2 The minutes of May 31, 2006 (Special Meeting), June 13, 2006 (Shirtsleeve Session), June 27, 2006 (Shirtsleeve Session), and June 27, 2006 (Special Meeting) were approved as written.

E-3 Approved the plans and specifications and authorized advertisement for bids upon receipt of authorization to construct from Caltrans for the Stockton Street Asphalt Concrete Resurfacing Project (Kettleman Lane to 1,000 Feet South of Century Boulevard).

E-4 Adopted Resolution No. 2006-126 awarding the contract for Playground Improvements at Blakely Park, 1050 South Stockton Street, to A. M. Stephens Construction Inc., of Lodi, in the amount of \$209,577.80.

E-5 Accepted the improvements under “Playground Improvements at Van Buskirk Park, 600 North Pleasant Avenue, and Hale Park, 209 East Locust Street” contract.

E-6 Adopted Resolution No. 2006-127 accepting improvements under “Henning Substation Driveway and Parking Lot Expansion” contract.

E-7 Adopted Resolution No. 2006-128 accepting improvements in Vintage Oaks, Tract No. 3482 (east side of Lower Sacramento Road, south of DeBenedetti Park).

E-8 “Adopt resolution authorizing fee adjustments for various Animal Shelter services and approving a shelter spay/neuter voucher program” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar**.

E-9 Authorized the City Manager to execute a settlement agreement in the matter of Michels Corporation, dba Michels Pipeline (Gelco Services) v. Crutchfield Construction Company, et al., San Joaquin County Superior Court, Case No. CV 028006, regarding the City’s Water and Wastewater Main Replacement Program, Project No. 2.

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

E-8 “Adopt resolution authorizing fee adjustments for various Animal Shelter services and approving a shelter spay/neuter voucher program”

City Manager King reported that this request is to adjust the fees across the board for services provided by the Animal Shelter in order to encourage responsible pet ownership. It also includes a proposal that an amount of money be provided for spay and neuter vouchers

for low-income residents, in addition to various financial incentives with the fees to encourage people to be responsible when they claim their pet or when their pet is cited.

Jeanie Biskup, Special Services Manager, reported that Lodi, based on its population and the National average, should have approximately 40,000 pets in its community; however, the data shows that it has only 2,500 licensed pets, which indicates that a large number are unlicensed. Ms. Biskup reviewed the proposed fees as follows:

- Current licensing fees are \$20 for unaltered cats and dogs; proposed fee is \$50.
- The licensing fees for altered cats and dogs is presently \$6; proposed fee is \$10.
- The unlicensed animal fee penalty is currently \$20; proposed fee is \$50, which is intended to encourage residents to license their pets. Because a large number of pets are unlicensed, Ms. Biskup recommended there be a 60-day fee increase waiver; whereby, residents would not be penalized. In addition, the shelter staff would operate clinics throughout the community to license pets and offer low-cost spay and neuter incentives.
- There is currently a 20% fine if a license is allowed to expire, which causes staff to prepare a notice to comply and track the licensing of the animal; proposed fee is \$50.
- The cost of boarding animals has increased and the proposed fee would cover the costs incurred for food, cleaning of the kennels, etc.; proposed fee is \$10 (present fees are \$8 for dogs; \$6 for cats).
- Current disposal fee is \$25; proposed fee is \$50. It has become quite costly for the shelter to maintain, care for, and adopt out the animals that are left at the shelter, and the fee increase is to encourage residents to otherwise find homes for unwanted pets.
- Impound and field calls are currently \$30 to pick up an at-large animal. Many times, Animal Service Officers are picking up the same animals repeatedly, and this fee proposal is to address those who do not take responsibility for their at-large pets by allowing them to run loose or by not providing adequate fencing. The proposed level of fees is based on cost recovery for staff to take in the animal, examine and inspect it for microchip or licensing information, provide necessary shots, and search for owner information.
- Current spay and neuter deposit is \$50; proposed fee is \$75, which is permitted by the State Food and Agricultural Code. This fee is to encourage people to have their animals spayed and neutered, after which they would receive back their deposit.

In response to Council Member Hansen, Ms. Biskup stated that, to license an unaltered dog, it would be \$50; however, if Animal Services were to pick up an unlicensed dog, it would cost to license the dog and a penalty would be imposed for having an unlicensed dog over the age limit of four months (i.e. two separate fees). She further confirmed that those who voluntarily license their animals would only be imposed the initial fee to license their pet and not be assessed a fine.

Mayor Pro Tempore Johnson suggested an amnesty program in order to encourage people to license their pets without penalty, to which Ms. Biskup responded that staff would like to offer a number of clinics throughout the community to make available an on-site veterinarian to provide rabies shots, as well as staff to license pets, all without penalty. Mr. Johnson suggested that a more concerted effort be made so that the full impact of the fees and penalties are realized by the residents.

Ms. Biskup reported that the People Assisting the Lodi Shelter and Animal Friends Connection has adopted out over 500 animals in 2005; however, the Shelter took in over 2,200 pets. The root of the problem is the unwanted litters, and the adoptions aid in this effort, but it does not fully address the problem. The spay and neuter voucher program would allow Animal Service Officers the flexibility to offer this option to low-income individuals or those with special circumstances rather than imposing fees that would make it cost prohibitive for people to retain their animals.

PUBLIC COMMENTS:

- Steve Jarrett stated his objection to raising the licensing fee for unaltered animals by 150% and he believed that people have a right to own unaltered dogs because of their beliefs or because they do not like the personality changes that occur with a neutered animal. He believed that, out of the 428 licensed unaltered animals, very few were likely picked up last year as running loose. He encouraged Council to increase the licensing fee for unaltered animals to \$30.
- Eunice Friederich stated that the residents on the east side will not be able to afford the fee increases and she expressed concern that many will ultimately abandon their pets. She encouraged Council to study this proposal further before taking action and also suggested that the licensing fee be lower for cats. Many people rescue animals or serve as foster homes until the animals are adopted, and she requested that no one in this situation be penalized for not licensing an animal. Ms. Friederich was opposed to the \$50 disposal fee and stated that any type of amnesty or flexibility in the fines and penalties be spelled out so that everyone is treated equally. She believed the City should seek additional donations instead of raising the fees.

Council Member Beckman questioned if it was realistic to charge more for cats than for dogs, to which Ms. Biskup responded that cats require more intensive maintenance because each cage needs to be individually hand cleaned; whereas, dog kennels can be hosed down. Additionally, the paperwork, cost of the license, and processing are identical for cats and dogs, and the redemption rate for cats is 4% versus 37% for dogs, which means that more cats than dogs remain at the shelter to be cared for and maintained.

Council Member Hansen believed that there is likely a high percentage of people whose pets are current on their shots but are unlicensed and he wanted to be ensured that there was a well advertised amnesty period built into the rates so that residents are educated on and aware of their requirements, as well as the penalties.

MOTION:

Council Member Hansen made a motion to adopt Resolution No. 2006-129 authorizing fee adjustments for various Animal Shelter services and approving a shelter spay/neuter voucher program, with a six-month amnesty and educational program to alert the public as to the time period they have to license their animals.

Mayor Pro Tempore Johnson asked if Council Member Hansen would modify his motion to extend the amnesty period in order to allow the shelter time to structure and advertise the program, to which Mr. Hansen amended his motion to an eight month amnesty period. Mayor Pro Tempore Johnson seconded the amended motion.

DISCUSSION:

Council Member Beckman questioned what residents would be receiving amnesty from, to which Mr. Hansen responded it would be amnesty from the current fees. Based on further discussion, confusion arose as to whether the amnesty would be for all fees or for only the penalties.

Mr. King suggested that the resolution language be amended to reflect an effective date of January or February 2007 so that the current fees are maintained until the resolution takes effect.

Council Member Mounce expressed concern about the penalties for unlicensed animals and believed that many people would not claim their pets in order to avoid paying the fees, which could result in unwanted animals being euthanized.

MOTION AMENDED:

Council Member Hansen amended his motion, Johnson second, to adopt Resolution No. 2006-129 authorizing fee adjustments for various Animal Shelter services and approving a shelter spay/neuter voucher program, to be effective February 1, 2007, in order to allow a time period to alert and educate the public as to the time period they have to license their animals.

DISCUSSION:

City Manager King pointed out that the exhibit to the resolution did not include all of the fees included in the staff report and that it would be corrected.

VOTE:

The above amended motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Felix Huerta, business agent for the American Federation of State, County, and Municipal Employees, addressed the Council regarding possible recruitment and retention problems in the water treatment plant operator series at White Slough. A number of qualified employees have left to seek employment with other local jurisdictions, and he believed this was a result of the inadequate salary level. The remaining employees work four 10-hour shifts, plus overtime, in order to keep the plant operating, and he believed the City was close to being in violation of the licensing requirements. Mr. Huerta stated that the City recently released a survey that indicated the employees were underpaid by 4.2%. He stated that last year there was an arbitration regarding the salary schedule and linkage between two classifications in the Finance Department, and the resolution was to focus on the issue during this year's negotiations; however, it has not yet been addressed.

Mayor Hitchcock pointed out that negotiations between Council and the bargaining units are typically not conducted publicly and questioned if this was the correct process, to which Mr. Huerta replied that he was simply providing information to the Council.

Mr. Huerta further stated that the City agreed to benchmarking in the current contract, which has not yet been done, and he expressed concern that the unions are not being provided accurate information.

- David Nielsen reported that Senator Barbara Boxer's office is continuing to research the Patriot Act extension and has directed Mr. Nielson to www.grants.gov for information on federal grants that can be obtained through the City of Lodi to assist in the efforts to clean up his neighborhood on East Locust Street. He discovered three grants totaling \$22,675,000 for gang education in schools and revitalization or deconstruction of distressed housing that the City may be eligible for, the details of which he provided to the City Manager. Mr. Nielsen submitted a draft ordinance (filed), which would require City inspectors to tour all rental properties larger than single-dwelling homes one time per year, and requested that Council consider adopting it. The ordinance would ensure that residential units are properly maintained and that landlords and tenants comply with the City's housing code. The program would generate money for the City in the form of fees and would reduce gang activity, pest infestation, and injury and would guard against hazardous conditions, thereby protecting property values. Similar programs have been successfully implemented throughout the state and have been unsuccessfully challenged by landlords.

Council Member Beckman questioned why the ordinance singles out single-family dwellings, to which Mr. Nielsen responded that a single-family dwelling typically houses between three and four people; however, multi-dwelling units have several families living together. His goal is to make landlords accountable by managing the properties properly and making the living conditions safe for the tenants and the citizens of the community.

Mayor Pro Tempore Johnson pointed out that state law establishes the number of people per square footage, which is very generous, and he questioned if this would hinder Mr. Nielsen's efforts. Randy Hatch, Community Development Director, responded that the state standards for square footage per occupant are so minuscule that it is meaningless for an occupancy enforcement provision. He was aware of other jurisdictions, including Stockton, that have implemented annual inspection programs who have met with a great deal of controversy, and he suggested that this type of program be researched further before being implemented.

Council Member Mounce stated that Code Enforcement has difficulty gaining access to properties to determine whether or not there are code violations on the inside and she was in favor of reviewing the proposed ordinance and the potential grants presented by Mr. Nielsen.

Council Member Beckman stated that the city of Stockton is putting forward a ballot initiative regarding a rental ordinance and suggested that the City wait to see the outcome of the measure.

In response to Mayor Hitchcock, Mr. Nielsen stated that the ordinance includes fees for inspections and fines. Mayor Hitchcock stated that this matter would be referred to staff and brought back at a future date.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman requested that a Shirtsleeve Session be scheduled to discuss the issues brought up by Mr. Nielsen, as well as a briefing on the city of Stockton's measure.
- Council Member Hansen provided a report on the status of AB 2021 regarding energy efficiency and SB 1554 regarding exit fees. The 3% per kilowatt hour penalty provision included in AB 2021 has been eliminated, and SB 1554 successfully moved forward in the Senate; however, Assemblyman Levin defeated it and is attempting to rewrite it. Last week, he testified before the Senate Utilities Communications Committee on AB 2987 regarding AT&T providing alternative services in cities. Several issues were brought before the committee, including redlining, public access, fees versus Proposition 218 tax, and abrogation. Cable television supports this bill as a way to eliminate the fees it takes to cities. Rather than have a franchise through local government, it wants the state to control it, and municipalities are fighting to maintain local control. Mr. Hansen reported that the Measure K Expenditure Plan has been approved and the measure will be on the November ballot for renewal as Measure "K." Finally, the Northern California Power Agency approved a resolution regarding the monitoring and eventual reduction of greenhouse gases. He voted in favor of it because it was clear that this matter would be mandatory for all local agencies; however, the implementation of the guidelines would be determined by each individual entity.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King reported that he and staff have reviewed the three grants mentioned earlier by Mr. Nielsen; one applied to housing authorities and another to education, both of which the City of Lodi would not be eligible for, and the third was a Department of Justice grant, which could potentially be obtained through the Police Department. He stated that staff will continue to look into the matter.

In regard to AB 2987, the interesting turn has been the cable company's endorsement of the legislation, which came with the ability to release itself from local franchise agreements. There are agreements in most local municipal cable franchises that are unique to a city, and if this legislation passes, cities will lose the control to negotiate specific features as the California Public Utilities Commission would be responsible for regulating cable franchise agreements.

Mr. King reported that the deadline for applications for the City Clerk position has been extended to July 28 in order to advertise the position in the City Clerk's Association of California publication and Web site.

Mayor Pro Tempore Johnson cautioned that many grants call for matching funds and that staff to be aware of that when researching these grants, to which Mr. King responded that the grants in question did not include matching requirements.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider adopting a resolution establishing low-income discounts for water and sewer services and further adopting a resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election.

Mayor Hitchcock questioned if all low-income discount programs need to be placed on the ballot for approval by the voters, to which Mr. King responded in the negative. The low-income discounts for water and sewer services come from an enterprise fund, and according to law, the City cannot charge more than the cost to provide the services; therefore, the issue is that some ratepayers are subsidizing others.

City Attorney Schwabauer reported that Council adopted a low-income discount program on August 4, 2004, at which time discussion centered on whether or not Proposition 218 applied. He believed that discounts could be provided under Proposition 218 as it is a standard practice among all publicly- and privately-owned utilities and it is used as a debt collection tool; however, others believe that it violates Proposition 218 because a majority of the rate payers are subsidizing others. At the 2004 meeting, Council directed that this matter be placed on the ballot at the next general election. For 2006-07, the program will cost \$128,300 (or 1.6% of revenue) for the water discount and \$134,500 (or 1.7%) for the wastewater discount. The proposed resolution includes a 2% cap of revenues from the rate program and does not constitute a rate increase as the fees have already been collected.

In response to Council Member Mounce, Interim City Clerk Perrin replied that it costs \$5,000 to \$10,000 to place a measure on the ballot and the 2006-07 budget incorporated this expense.

Council Member Hansen inquired if the ballot question would be worded in a positive or negative, to which Mr. Schwabauer responded that it is worded in accordance with the formula set forth in the Elections Code (i.e. "*shall the proposed resolution be approved*").

In response to Council Member Hansen, Mr. Prima stated that the impact on the average bill for the discounts would be 25 to 30 cents per month each for water and sewer. The number of those who qualify for the program has increased since it was approved, which prompted the proposed 2% cap on the program.

Council Member Hansen questioned if the money that has been collected for this program would be refunded to ratepayers should the measure fail, to which Mr. Schwabauer responded that the decision would be that of the Council.

In response to Council Member Mounce, Mr. Schwabauer stated that, if Council did not place the matter on the ballot, the program could be challenged in court.

Hearing Opened to the Public

- Ann Cerney expressed concern about placing the issue on the ballot as many will not understand it and will vote no on the measure. She encouraged Council to delay its decision to get further input and believed it was unlikely it would be challenged.

- Russ Munson questioned what the impact to the City would be if both the water rate reduction initiative and the low-income discount program passes.

City Manager King replied that, if the low-income discount program passes, there is no change in the rates. If it fails, there would be a minor change in the rates: some would see an increase and others a decrease, which results in a zero net affect. The water rate reduction initiative, however, would severely impact operations, if passed.

- David Nielsen expressed support for the low-income discount program and suggested that developers and new businesses be surcharged to help pay for the \$45 million clean up costs.

Public Portion of Hearing Closed

MOTION:

Council Member Beckman made a motion, Hansen second, to adopt Resolution No. 2006-130 establishing low-income discounts for water and sewer services and to adopt Resolution No. 2006-131 ordering that a measure be submitted to the voters at the November 7, 2006, General Municipal Election relating to low-income discounts for water and sewer services.

DISCUSSION:

Council Member Mounce expressed concern that the measure would fail and opted for not placing it on the ballot. She believed it was unlikely that it would be challenged.

Mayor Hitchcock encouraged Council Members to join with her in writing a ballot argument in support of the measure.

Council Member Hansen agreed with the concern that the measure may not pass; however, he believed the Council had a responsibility to fulfill its promise of placing it on the ballot as Council directed in 2004.

Mayor Pro Tempore Johnson stated that he supports discounts for senior citizens and low-income citizens citywide and would not support placing the measure on the ballot.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Mayor Hitchcock

Noes: Council Members – Johnson and Mounce

Absent: Council Members – None

RECESS

At 9:09 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:21 p.m. NOTE: City Attorney Schwabauer left the meeting at 9:09 p.m., and Deputy City Attorney Magdich acted in his stead.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Mounce, Beckman second, unanimously made the following appointments.

Animal Shelter Task Force

Jayne Nielsen Unspecified term limit

Lodi Arts Commission

Ben Burgess Term to expire July 1, 2009

Nancy Carey Term to expire July 1, 2009

San Joaquin County Commission on Aging

Terri Whitmire Term to expire June 30, 2009

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Adopt resolutions approving the 2006-07 Financial Plan and Budget and the 2006-07 Appropriations Spending Limit, OR adopt resolution authorizing the continuation of expenditures from July 7, 2006 through July 22, 2006, if necessary”

Mayor Hitchcock asked Council Members to state the issues they would like discussed and voted on separately from the budget:

- Council Member Beckman stated he would be abstaining on the funding for the Lodi Conference and Visitors Bureau (LCVB);
- Council Member Mounce requested further discussion on the graffiti abatement program and on Account 900, which states “Blank” on a \$5 million line item;
- Mayor Hitchcock requested to pull for discussion the economic development position restoration;
- Council Member Hansen requested further discussion on the funding for the Downtown Lodi Business Partnership (DLBP); and
- Mayor Pro Tempore Johnson stated that he would not vote in favor of the budget due to his concern on adding staff during a tight budget year.

City Manager King stated that the proposed funding for the graffiti abatement program is \$47,950 and restoring it to the present level would be \$60,000, which could be accomplished by eliminating the economic development coordinator position. He suggested, however, that another source of revenue for funding the program be determined during the mid-year adjustments. Historically, Lodi has had an economic development position, and he has recently received requests from the business community to restore this position. Additionally, there are several programs being developed, which would require a staff person to monitor and implement, such as targeted recruitments for specific businesses, revolving loan programs, downtown impact mitigation fees, and recruitment for hotels.

Mr. King explained the formula he used to calculate the funding recommendations for the various organizations, which were all tied to economic development and were compared to the cost of a mid-management position as the base level. His purpose was to create a public policy to fairly determine funding levels and establish parity between the various organizations. In the case of the LCVB, staff had recommended that the funding level be reduced over a three-year period, which was much less than that requested by the LCVB. The alternative would be to more gradually reduce the level over six years, which is closer to the \$15,000 reduction proposed by LCVB and still meets the formula.

Mr. King highlighted some of the proposed personnel changes in the budget:

- City planner is a title change to planning manager – no salary change proposed;
- In the Fire Department, upgrade 3 firefighters to firefighter/engineers and to backfill by adding 3 firefighters, which would create a total of 18 firefighters, 21 fire engineers, and 15 fire captains – no net change to the budget as money from overtime would be used to fund the positions;
- Water services technician is a new position, which replaces the water conservation officer;
- A third grade is being added to the wastewater plant operator series in order to provide more capacity and attract and retain people; and
- Restoration of the water/wastewater superintendent position, along with the added qualification of being a registered civil engineer – those who have been serving to fill this position would maintain their salaries and receive title changes.

In response to Mayor Hitchcock, Mr. Prima stated that there are six operator positions at White Slough and only two of those positions are currently filled. He disagreed with the earlier statement on the cause of the turnover as most have left for higher level positions with other entities, as the City does not have such positions available. The proposed grade III in the operator series would assist in recruiting, as well as offer a range of positions.

Mayor Pro Tempore Johnson suggested that the request for additional firefighters be delayed to see if Measure G passes in November, at which time the Fire Department would be able to hire six firefighters.

Fire Chief Pretz responded that he currently has a minimum of 16 people on shift; however, due to vacations and sick leave, he is forced to call back staff on overtime. Measure G was not proposed to address the overtime issue; it was to hire firefighters/paramedics in order to implement the paramedic program. He pointed out that there is a six-month lag time in hiring and, if approved, the new firefighters would not be on board until January.

Council Member Hansen stated that he would support hiring the three positions; however, he would observe the situation very closely to ensure that the department breaks even on the overtime. If, during mid-budget year, there has not been a reduction in overtime, he would not support any further positions. He questioned if the overtime was factored into the six-month lag time it would take to fill these positions, to which Chief Pretz responded in the affirmative.

City Manager King pointed out that, if it took longer to hire the staff, the overtime budget may be higher than what was budgeted; however, the regular salary budget would be reduced to offset that.

Council Member Hansen questioned what the overall increase is in the budget for all of the personnel adjustments, to which Mr. Krueger estimated that it was approximately \$100,000 throughout the entire budget.

Council Member Beckman stated he was not in support of hiring the firefighters if Measure G is successful and suggested that staff begin the recruitment process, however, hold off on filling the positions until the outcome of the election is known.

Chief Pretz reiterated that Measure G is completely separate from the overtime issue and the request for three additional firefighters. Measure G would add six paramedics to the Fire Department regardless of the number of staff presently in the department – it is two separate programs.

Council Member Beckman expressed support for fully funding the graffiti abatement program at the \$60,000 level and eliminating the economic development coordinator position.

Mayor Pro Tempore Johnson expressed opposition to adding the firefighters when there is an opportunity in November to add six paramedics, which would address the overtime issue as well as achieve the paramedic program.

In response to Council Member Mounce's earlier question regarding Account 900, Mr. Krueger reported that the account represents the amount of anticipated revenue that would be received from the utility rate increase. The reasons the account was listed as "blank" were that staff did not have the breakdown on how much would go into each revenue category and to highlight the anticipated affect on the total budget within the Electric Utility fund for the current fiscal year.

In response to Mayor Hitchcock, Mr. King explained that there was debate as to the true number of sworn positions in the Police Department, which should have been 77 versus 76.

He recommended full staffing of the department, with the exception of the unfunded grant position, and the draft budget pages were corrected to add back the 77th officer. Once grant funding is obtained, the 78th position would be included in the position control.

Council Member Hansen concurred with increasing the graffiti abatement funding by eliminating the economic development coordinator position. He cautioned, however, that at some point in the near future, the City will need to invest in ways to bring additional businesses, revenue, and sales tax to the community. He agreed that there needs to be a basis for determining the funding levels for the various organizations; however, he expressed concern on the assumptions and formula used. He questioned if ultimately all of the organizations would receive \$35,000, or the equivalent to the mid-management salary level at that time, to which Mr. King replied in the affirmative.

Mayor Hitchcock expressed support for restoring the LCVB funding level to \$108,500.

NOTE: Due to a potential conflict of interest stemming from his spouse's employment with the Lodi Conference and Visitors Bureau, Council Member Beckman abstained from discussion on this matter and vacated his seat at the dais at 10:25 p.m.

Nancy Beckman, Executive Director of LCVB, expressed appreciation to the City Manager in providing a basis by which all of the organizations are funded; however, she did not agree with the base amount. She stated that reducing the amount over six years, rather than three, would ease the impact on the organization. She believed that the service LCVB provides is a definite return on the City's investment, which includes transient occupancy tax and sales tax revenues, tourism, and jobs.

In response to Council Member Hansen, Ms. Beckman stated that 90% of conference and visitors bureaus receive government funding for support of their organizations.

NOTE: Council Member Beckman returned to his seat at the dais at 10:31 p.m.

Mr. King reported that the Library is proposing a refurbishment project and intends to utilize \$150,000 from the library fund balance, for which Council is the budgeting authority. This would reduce the fund balance to \$450,000. The other funding sources for the project are within the control of the Library Board and Library Foundation.

Nancy Martinez, Library Services Director, stated that the \$681,000 refurbishment project will include new carpeting and flooring, painting, rearrangement of the stacks, a new service desk and teen area, café seating area, new furniture in the work rooms, energy efficient lighting upgrade, and a remodel of the entrance ramp that would address Americans with Disabilities Act requirements.

Council Member Hansen questioned if the Library was the only department allowed to set aside funds into a fund balance, to which Mr. King replied that Community Development was recently established as a self-funded department. Mr. Hansen expressed concern about the failing heating, ventilation, and air conditioning (HVAC) system and that enough money should remain in the fund balance to address the situation.

Ms. Martinez stated that the Lodi Public Library Foundation is the fundraising arm and support group for the Library, which currently has \$520,000 in undesignated funds and is raising money for expansion of the Library. Since that project is well off into the future, it voted to expend \$200,000 on the refurbishment project. The private sector trust fund is from a bequest received in 1979 and is under the purview of the Library Board of Trustees, which has committed \$250,000 toward the refurbishment project. The reasons for requesting this now is that the final dollar amount was unknown and it had been expected that the budget would have been adopted.

In response to Council Member Hansen, Mr. King confirmed that the \$150,000 request would not reduce the general fund total as the library contribution of \$1.6 million was already transferred into the library fund. From that contribution, the library has a revenue and expense budget; any surplus goes into the library fund reserve.

Mr. King stated that he has been unable to locate information on where there is a separate taxing authority for the Lodi Public Library. The City Council makes the policy decision of how much of its general fund to transfer to the library. There are taxing entities that have a separate levy on tax bills, and he believed that this was Lodi's intention in the 1970s, but it was not consummated prior to Proposition 13.

Mayor Hitchcock believed that, prior to Proposition 13, a certain amount of the property tax went to fund libraries, which was eliminated when Proposition 13 was approved. The City then allocated a portion of the property tax to fund the library, which was not enough; therefore, additional money was contributed from the general fund, which remained in the library's fund for capital improvement purposes. She stated that the predicament is whether the fund balance should be used on the refurbishment project or be reserved to take care of the imminent HVAC replacement; otherwise, money from the general fund will be needed to handle that capital improvement.

In response to Mayor Pro Tempore Johnson, Ms. Martinez stated that the Library Foundation is not in favor of utilizing its funds toward maintenance issues, nor is the Board in favor of using the private sector trust fund in that manner. The refurbishment project is for basic maintenance, as well as to reduce the exposure to risk due to potential tripping hazards. She believed it would be possible to scale back portions of the project and indicated that staff would review that once the project went out to bid.

In response to Council Member Beckman, Mr. King stated that the Council is the funding authority for the library fund balance and this \$150,000 request represents an increase in the library's expenditures. Had this request been made after the adoption of the budget, it would have resulted in an amendment to the budget. Mr. Beckman stated that he was not in favor of using the funds for the refurbishment project and would prefer that it be set aside for replacement of the HVAC system.

In response to Council Member Hansen, Mr. Krueger stated that the library fund balance has gone from \$650,000 two years ago to an estimated ending balance in the next fiscal year of \$540,000 (without utilizing the requested \$150,000). Mr. Hansen stated that he could not support the project at this time.

Ms. Martinez stated that the Library Board views the fund balance as within its purview to expend in the manner in which it sees fit, based upon legislation set forth in the education code.

Mayor Hitchcock suggested that staff meet with the Library Board to educate it on how the money is allocated from the general fund and remains a part of the City to be used toward capital projects and improvements.

Council Member Beckman suggested that a Shirtsleeve Session be scheduled to explain why the City continues to have a library fund balance.

PUBLIC COMMENTS:

- Felix Huerta, business agent for the American Federation of State, County, and Municipal Employees, reminded the Council that the City has an obligation to meet and confer on changes in conditions of employment. If the City is proposing to lay off positions (i.e. eliminating the water conservation officer) or creating new positions (i.e. water services technician), the City has an obligation to bargain with the units over

the wages of that position. As of yet, he has not been provided any documentation on the proposed changes, and if the labor practices are violated, the union would be forced to file a grievance against the City. Due to the high number of vacated or frozen positions, the bulk of the work falls to the remaining employees. In regard to the elimination of a meter reader position, he pointed out that there will be one route short where the electricity will need to be estimated, which may result in inaccurate readings or an increase in complaints to the City. He believed that it would not fix the problem at the wastewater treatment plant by creating a third operator level, and the City should instead resolve the issues with grades I and II.

Mr. King stated that the position changes would be subject to meet and confer and would be executed prior to any changes. He pointed out that there are existing Memorandums of Understanding that have grievance procedures to resolve disputes that are applicable to both sides.

- Ann Cerney expressed support for the Library and stated that it is one of the City's most valuable institutions.

NOTE: Due to a potential conflict of interest stemming from his spouse's employment with the Lodi Conference and Visitors Bureau, Council Member Beckman abstained from discussion and voting on this matter and vacated his seat at the dais at 11:12 p.m.

MOTION #1:

Council Member Hansen made a motion, Hitchcock second, to adopt Resolution No. 2006-132 approving funding in the amount of \$108,500 to the Lodi Conference and Visitors Bureau for fiscal year 2006-07.

DISCUSSION:

In response to Mayor Pro Tempore Johnson, Deputy City Attorney Magdich stated that he could vote to approve the funding and still vote no on the overall budget document as they are separate resolutions.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Beckman

NOTE: Council Member Beckman returned to his seat at the dais at 11:13 p.m.

MOTION #2 / VOTE:

Council Member Beckman made a motion, Hansen second, to adopt Resolution No. 2006-133 adopting the 2006-07 Operating and Capital Improvement Budget for the fiscal year beginning July 1, 2006 and ending June 30, 2007, and approving the 2006-07 Appropriations Spending Limit, which incorporates the changes of 1) increasing funding for graffiti abatement officer to \$60,000 and 2) eliminating the economic development coordinator position. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Mayor Hitchcock

Noes: Council Members – Johnson and Mounce

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Beckman, Mounce second, unanimously voted to hear only Items K-3, K-6, and L-1 following the 11:00 p.m. hour.

K. REGULAR CALENDAR (Continued)

- K-2 "Adopt resolution affirming July 1 opening and October 1 closing date for filing applications for residential allocations under the Lodi Growth Management Ordinance and direct staff to work with the development community to establish a new timeline for Council approval of various elements of development approvals" was ***pulled from the agenda pursuant to the above vote.***

NOTE: The following item was discussed and acted upon out of order.

- K-6 "Presentation from the Grape Bowl Ad Hoc Committee regarding elements of the Americans with Disabilities Act Transition Plan and request that Council approve the proposed Grape Bowl concept plan"

With the aid of a PowerPoint presentation (filed), Richard Dean, Chairman of the Grape Bowl Ad Hoc Committee, reported that the Committee has met every Monday for the last five months to address the major deficiencies at the Grape Bowl, which include the following:

- Lack of accessible path of travel;
- The ramps are too steep and are lacking landings – by code they should be at 8.33% grade and they are currently over 16%;
- The cross slopes exceed 2%;
- Tripping hazards;
- Dilapidated and inaccessible restrooms, concessions, and field house.

The major driving force in this effort is to address the issues related to disabled access and to avoid potential lawsuits; however, any efforts to upgrade the Grape Bowl would require the entire facility to be brought up to code. Phase I of the Americans with Disabilities Act (ADA) Transition Plan was to receive a report from the Committee by July 2006 on the opportunities, constraints, and costs associated with upgrading the Grape Bowl. The next deadlines are Phase II in 2007-08 when the City is to hire an architect to design the plans for the renovations and Phase III in 2008-10 when the City is to award the contract and begin construction.

Mr. Dean stated that the Committee was approached by proponents of Measure G who suggested that the indoor sports complex be incorporated into the Grape Bowl and, it chose to distance itself from the measure as it would delay the Committee by not knowing the outcome until late 2006.

Mr. Dean displayed the design concept, which includes knocking out the west end of the Bowl and constructing a ticketing and concession plaza. There would be a ground level entrance even with the front row seating and a sky bridge with a two-story concession stand and restroom facility that would be accessible at both levels by elevator or stairs. The facility would include a seating area with tables and chairs at field level in the end zone area. The estimated cost for the project is \$6 million to \$8 million, which includes an optional \$1.2 million for artificial turf.

Presently, the Grape Bowl is used for football for Lodi Unified and Boosters of Boys and Girls Sports, the annual band review, and graduation ceremonies. The Committee created three tiers of uses: 1) motocross and extreme motor sports; however, there are concerns due to the required surface and potential damage to the field; 2) horse and dog shows, garden shows, circus, and car shows; and 3) football, band reviews, graduations, soccer, and track meets. The Committee believed there would be a demand for regulation soccer; however, the Bowl could not house both a regulation soccer field and a regulation track.

The Committee also believed that the Bowl would be appropriate for concerts; however, there may be issues and complaints arising from the neighbors.

The Committee conducted a survey at one of its public forums and placed 10,000 surveys in the newspaper; he highlighted the following results from the 287 that were completed:

- Minimal renovations with potential costs in excess of \$3 million – yes 140; no 126.
- More than minimal; put money into it for more potential uses – yes 154; no 117.
- Sell it, buy more property, and build another sports complex – yes 50; no 230.
- Raise funds by quarter cent sales tax, transient occupancy tax, utility tax, parcel tax – most were not in favor.

There are companies that would privately promote and run a sports facility; however, it was felt that the Grape Bowl did not have enough uses to attract someone in that manner. Development fees or public facilities fees would be a potential funding option, and the Committee also looked at redevelopment. The problem with redevelopment is that it takes time to get the cash flowing; however, the Committee believed it was an option that the City should research and pursue. The Committee seriously considered bringing forth a request to Council to place a quarter cent sales tax initiative on the November ballot; however, it ultimately determined the ballot was too crowded with other initiatives and that it would not be successful. The last option for funding would be private donors and naming rights, which is the direction the Committee recommends heading toward.

It costs \$60,000 a year to maintain the Grape Bowl at its current level, and the Committee believed that could be recouped through additional rental fees. The Bowl presently rents for \$4,000 a day, and if it were in good condition, the fee could be increased. There is the potential for advertising sales and a ticket surcharge.

In order to mitigate the hazards to improve disabled access and reduce the possibility of civil litigation, the Committee recommended that the City continue to restrict the use of the facility to only currently scheduled events and repair the tripping hazards. Additionally, the City should provide disabled parking, portable restrooms, and access from the east end of the field and require event sponsors to provide disabled assistance.

Mr. Dean summarized the Committee's recommendation:

- Create a 501c3, non-profit fundraising committee, independent of the City of Lodi, to raise money to pay for the Grape Bowl and to assist with the mitigation projects.
- Recess the Ad Hoc Committee for one year and reconvene in July 2007 to see how much money has been raised and develop final recommendations to the City.
- Implement a ticket surcharge on the gate fees for football games and place the money into a Grape Bowl mitigation fund. He recommended a \$1 to \$2 ticket surcharge, but he cautioned that the gate fees and concession fees were the major fundraisers for the high school athletic programs.
- Mitigate the hazards now to avoid liability and perhaps expand the current uses at the Bowl.

In response to Mayor Pro Tempore Johnson, Mr. Dean stated that the estimated \$6 million to \$8 million is for the entire project. The Committee did not calculate how much money could be generated on rentals, but it believed that it would be enough to cover the maintenance on the facility. Mr. Dean stated that the high schools would prefer to play their games at the Grape Bowl and he has not heard that they intend to discontinue using that facility.

Council Member Mounce questioned what the trigger is for ADA compliance in a construction project, to which Mr. Hatch stated that significant projects such as this would require the entire facility to be brought into ADA compliance.

Council Member Hansen expressed willingness to further study the option of redevelopment and he questioned how seriously the option of a private foundation or funding partnership was explored. Mr. Dean responded that the Committee felt that it could not find a private company that would be willing to offer \$6 million to \$8 million; however, there is potential to have a private promoter market the events at the Bowl.

Council Member Beckman expressed support in further researching the redevelopment option, particularly since the Grape Bowl would provide a specific project for the plan.

Mayor Hitchcock also expressed support for pursuing a redevelopment agency; however, she expressed concern that it takes too long to gain a pot of incremental tax dollars and that it would not be enough to pay for this project.

Mr. Hatch explained that the project area would need to be significantly larger than the Grape Bowl because the Grape Bowl itself would not generate an increment.

Mayor Pro Tempore Johnson pointed out that four Council Members expressed an interest in pursuing redevelopment relative to this project and believed it was concurrence for staff to bring this matter back for further discussion.

Mr. King summarized that the committee would like Council endorsement on the physical concept of the facility and the City's blessing for it to raise funds through a 501c3 non-profit organization, independent of the City as the effort would be more successful without the disclosure requirements. The 12-month hiatus of the Committee would provide Council the opportunity to further pursue other options. Through a ticket surcharge, the Committee recommends that interim ADA improvements be made to the facility.

PUBLIC COMMENTS:

- Steve Jarrett questioned whether this \$8 million project was a satisfactory use of public funds, when its utilization will most likely not be greater than it is currently.
- Chuck Easterling stated that he was the chairperson of the proposed Redevelopment Agency Project Area No. 1 and believed that many people signed the petition against the project because of the scare tactics of eminent domain being used to take private homes. He suggested pursuing the redevelopment option with the elimination of any language referring to eminent domain.

Mayor Hitchcock confirmed that the Council subsequently removed that language.

Council Member Mounce stated that she walked many precincts with the petitions against the redevelopment project and most people signed willingly after reading the first line of the plan.

MOTION:

Council Member Beckman made a motion, Johnson second, to approve the proposed Grape Bowl concept plan, which includes the following elements: 1) design concept (filed); 2) formation of a 501c3 non-profit organization to begin fund-raising efforts; 3) Grape Bowl Ad Hoc Committee will recess for one year; 4) mitigation measures at the Grape Bowl (i.e. repair tripping hazards, provide disabled parking, portable restrooms, wheel chair spaces at lower level, etc.); 5) City to implement a ticket surcharge for the purpose of a Grape Bowl mitigation fund; and 6) Grape Bowl Ad Hoc Committee to reconvene in July 2007 to develop final recommendations to the City.

PUBLIC COMMENTS (Continued):

- Ann Cerney questioned if the agenda title accurately reflected the action to be taken, what the concept plan entailed, and what ancillary Council actions would flow from this.

Mr. Hatch stated that this is an implementation of the ADA Transition Plan, which was to investigate the Grape Bowl as being the largest and most challenging non-compliant City facility. The diagram is the concept, which would be used by the fundraising group to raise money. At this time, there are no development actions through zoning or development permits.

Ms. Magdich added that the Committee would recess for a one-year period in order to allow time for the 501c3 non-profit committee to raise funds, at which time the Ad Hoc Committee would receive a report on the fundraising effort and would report back to the Parks and Recreation Commission and the City Council.

Ms. Cerney expressed concern that it was stated that there is concurrence of four Council Members to pursue redevelopment, which was not mentioned on the agenda, and expressed concern that a 501c3 corporation would be making suggestions, but not be subject to disclosure laws.

Ms. Magdich responded that the agenda description is accurate as the Ad Hoc Committee made its presentation and discussed a number of options to consider. The Ad Hoc Committee would not form the non-profit organization; it would be a separate entity from the City, which would report back to the Ad Hoc Committee on its fundraising efforts.

DISCUSSION:

Council Member Beckman questioned if his motion should include a dollar amount for the ticket surcharge, to which Mr. King responded that the amount would be a topic of separate discussion and that staff would further research and discuss the matter with the school district.

VOTE:

The above motion carried by a unanimous vote.

- K-3 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$15,561.48)"

MOTION:

Council Member Hansen made a motion, Mounce second, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$15,561.48, as detailed below:

Folger Levin & Kahn - Invoices 183453.7323

Invoice No.	Date	Description	Amount
Withheld	Amounts	from Previous Invoices	
94738	03/01/06		\$1,367.00
94732	03/01/06		650.00
93892	02/06/06		2,115.00
93280	01/06/06		1,175.00
92663	12/05/06		235.00
6200	4/30/2006	Peter Krasnoff/WEST	<u>1,037.50</u>
		Total	\$6,579.50

Kronick Moskowitz Tiedemann & Girard - Invoices Distribution

Invoice	Total
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No.	Date	Description	Amount	100351.732	183453.732
225700	05/25/06	General advice	603.07	603.07	
225700	05/25/06	Claims by Environmental Consulting	38.00		38.00
225700	05/25/06	Lodi First v. City of Lodi	1,859.90	1,859.90	
225700	05/25/06	Citizens for Open Government v. City of Lodi	494.20	494.20	
225700	05/25/06	AT&T v. City of Lodi	3,589.81	3,589.81	
225700	05/25/06	Water Supply Issues	<u>2,397.00</u>		<u>2,397.00</u>
			\$8,981.98	\$6,546.98	\$2,435.00

DISCUSSION:

Mayor Hitchcock believed that the issues associated with Lodi First and Citizens for Open Government were completed and questioned why there were still expenses being incurred, to which Ms. Magdich replied that she would look into the matter.

VOTE:

The above motion carried by a unanimous vote.

- K-4 "Provide direction regarding scheduling and type of action the Council may take at informal informational meetings referred to as "Shirtsleeve" City Council meetings" was ***pulled from the agenda pursuant to the above vote.***
- K-5 "Review and discussion of current regulations pertaining to food vending vehicles" was ***pulled from the agenda pursuant to the above vote.***
- K-7 "Introduce ordinance amending Lodi Municipal Code Title 5 – Permits and Regulations – Chapter 5.40, "Adult-Oriented Businesses," by repealing and reenacting Section 5.40.020, "Location of Adult-Oriented Businesses," to add "Residentially-Zoned Property" to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and repealing and reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process" was ***pulled from the agenda pursuant to the above vote.***
- K-8 "Introduce ordinance amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.39, "C-2 General Commercial District," and Chapter 17.42, "C-M Commercial-Light Industrial District," to add card rooms as a permitted use, with a use permit, in both the C-2 and C-M zoning districts" was ***pulled from the agenda pursuant to the above vote.***

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1780 entitled, "An Ordinance of the City Council of the City of Lodi Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization and Adding Chapter 3.09 to the Lodi Municipal Code," having been introduced at a regular meeting of the Lodi City Council held June 21, 2006, the City Council, on motion of Council Member Mounce, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
 Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock
 Noes: Council Members – None
 Absent: Council Members – None
 Abstain: Council Members – None

NOTE: Council Member Beckman abstained from voting on this matter without stating a reason, and in accordance with Lodi Municipal Code Section 2.04.140, his silence was recorded as an affirmative vote.

Continued July 5, 2006

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:46 a.m., Thursday, July 6, 2006, in memory of Leonard Lachendro, former City Librarian from 1962 to 1991, who passed away on Monday, July 3.

ATTEST:

Jennifer M. Perrin
Interim City Clerk